

REMARKS

Status of the Claims

Upon entry of the amendment above, claims 1-25 will be pending, claims 1, 14, and 17 being independent.

Summary of the Office Action

Claims 1-3 and 5-8 are rejected under 35 USC §102(b) as being anticipated by BOULIER (U.S. Patent No. 4,622,764).

Claim 4 is rejected under 35 USC §103(a) as being unpatentable over BOULIER in view of CHEN (U.S. Patent Application Publication No. 2003/0208931).

Response to the Office Action

A. Summary of the Amendment

This reply includes an amendment which includes the following:

- amendments to certain paragraphs of the specification;
- replacement sheets for sheets 2/3 and 3/3 of the drawing;
- amendments to claims 1-5 and 8, and the addition of new claims 9-20.

1. Specification

In paragraphs 0004 and 0017, the expression "semi-high," for describing a type of footwear, has been changed to "mid-height," which is believed to be a more common expression.

In paragraph 0017, the identities of two patent applications cited therein, one French and one American, have been updated with their respective publication numbers.

In paragraphs 0020-0023, the expression "lateral edges" has been replaced with the expression "lateral walls," since the descriptions therein of the lateral portions of the heel stiffener are believed to clearly refer to the wall (reference numeral 25) and not merely to an edge. Further, in this regard, an amendment has been made to paragraph 0021 to specifically identify the upper edges of the walls by new reference numeral 25'.

Lastly, a few minor cosmetic revisions have been made as well.

2. Drawing

The second and third sheets of drawing, *i.e.*, sheet 2/3 and sheet 3/3 are being replaced with Replacement Sheets 2/3 and 3/3, attached hereto

In Fig. 2 of Replacement Sheet 2/3, reference numerals 21' and 25' have been added (referring to edges of a rear wall and a lateral wall, respectively). In addition, in Fig. 2, the length of the lead line for reference numeral 25 has been shortened, and in Fig. 2, the length of the lead line for reference numeral 25 has been extended, for consistency with the specification.

In Fig. 4 (Replacement Sheet 3/3), reference numeral 25 has been added. In the original drawing, there had been the lead line without a reference numeral.

3. Claims

Finally, in the amendment above, claims 1-5 and 8 have been amended, and new claims 9-20 have been added.

B. Withdrawal of §102 Rejection

At least for the following reasons, Applicants request that the rejection of claims 1-3 and 5-8, based upon BOULIER, be withdrawn.

The rejection is based upon the assertion that BOULIER's "cup-shaped molded part" 1, 2 corresponds to Applicants' claimed molded heel stiffener.

Independent claim 1 has been amended to make specific reference to a strap (such as strap 17 in the illustrated embodiment of Applicants' invention), which are positioned within recesses in the lateral walls of the heel stiffener.

Although a strap had been mentioned in original claim 5, Applicants note that it was mentioned in the alternative with the sole as having housings for positioning either a strap or the sole therein.

Paragraphs 0022, 0023, and 0028 describe advantages of having such a strap and having the strap affixed within housings/recesses of the heel stiffener.

At least for the reason that BOULIER does not include a strap or recesses in the molded part 1, 2, Applicants request that the rejection be reconsidered and withdrawn.

C. Withdrawal of §103 Rejection

At least for the following reasons, Applicants request that the rejection of claim 4, based upon a proposed modification of BOULIER by means of a teaching of CHEN, be withdrawn.

The rejection is based upon the assertion that it would have been obvious to have modified the shoe of BOULIER to have included a "pivoting recess at a junction of said lateral edges and a rear wall."

Applicants submit that the rejection should be withdrawn for at least two reasons. First, a purpose of the construction of BOULIER's shoe is to "provide a perfect stabilization of the foot during the movements inherent to the practice of some sports in order to avoid accidents to the joints such as sprains, wrenches and articular inflammations of the ankles, the knees, etc." Because of this objective expressed by BOULIER, Applicants submit that it would be inconsistent to provide a structure, such as the recesses of CHEN which might be regarded as facilitating movement.

Second, as shown in Fig. 17 of CHEN, the recesses 3022' (identified as such in Fig. 18) would appear to be overlapped and hidden by the upper extent of CHEN's outsole 20. Therefore, to the extent such recess might facilitate movement, the overlapping of the outsole on top of the recess would appear to counter same.

In any event, Applicants' claim 4 is believed to patentably distinguish Applicants' invention from the combination of BOULIER and CHEN. In the amendment, claim 4 specifies that the notches are positioned above the outer sole.

In view of the foregoing, reconsideration and withdrawal of the rejection is requested.

C. New Claims 9-20

In the amendment above, new claims 9-20 have been added, of which claims 14 and 17 are independent.

New claim 9 depends from claim 7 and further describes the difference in thicknesses between front and rear portions of the outer sole as the front portion having a thickness greater than that of the rear portion. Such difference is not taught or suggested by BOULIER.

New claim 10 depends from claim 9 and further describes the heel stiffener as having a base that extends between lower portions of the first and second lateral walls, with the (thinner) rear portion of the sole extending beneath the base of the heel stiffener.

Still further, new claim 11 describes the thickness of the front portion of the sole as being at least twice the thickness of the rear portion of the sole, and new claim 12 specifies that the thickness of the rear portion of the sole is 2 millimeters.

New claim 13, depending from claim 1, further calls for a front protective strip (such as strip 15 in Figs. 1 and 4) affixed to a lower portion of the upper, the front protective strip having a pair of arms extending rearwardly along the first and second lateral sides of the upper, with each of the pair of arms of the front protective strip being overlapped by respective portions of the strap on the first and second lateral sides of the upper. This particular construction is not taught or suggested by documents of record.

New claim 14 is independent and is directed, *inter alia*, to the aforementioned feature of the invention whereby the rear portion of the outer sole is thinner than the front portion, with the rear portion of the sole being beneath the base of the heel stiffener.

New claims 15 and 16 depend from claim 14, in seriatim, and describe the relative thicknesses in greater specificity.

New claim 17 is independent and is directed, *inter alia*, to the aforementioned "pivoting notch" feature of the invention.

New claim 18 further adds a limitation of the strap that extends around a rear of the upper, the strap having a pair of arms extending forwardly and downwardly to overlap onto, and be adhered to, respective forward ends of the first and second lateral walls of the heel stiffener.

New claim 19 depends from claim 18 and further specifies that the pair of arms of the strap are affixed to the rear of the upper and the first and second lateral walls of the heel stiffener to apply a forward tension on the rear of the upper.

Finally, new claim 20 depends from claim 19 and specifies that the base of the heel stiffener and the rear wall of the stiffener include recesses (such as recesses 26a and 21a), a rear of the outer sole being affixed to the heel stiffener in the recesses.

D. Information Disclosure Statement

Being filed concurrently with this reply is an information disclosure statement, citing four documents that are referenced in the specification of the instant application.

The Examiner's consideration of the information disclosure statement is kindly requested.

SUMMARY AND CONCLUSION

The grounds of rejection advanced in the Office action have been addressed and are believed to be overcome. Reconsideration and allowance are respectfully requested in view of the amendment and remarks above.


No fee is believed to be due at this time. However, the Commissioner is authorized to charge any fee required for acceptance of this reply as timely and complete to Deposit Account No. 19-0089.

Further, although no extension of time is believed to be necessary at this time, if it were to be found that an extension of time were necessary to render this reply timely and/or complete, Applicants request an extension of time under 37 CFR §1.136(a) in the necessary increment(s) of month(s) to render this reply timely and/or complete and

the Commissioner is authorized to charge any necessary extension of time fee under 37 CFR §1.17 to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone or fax number given below.

Respectfully submitted,
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Attachment: Replacement Sheets of Drawing 2/3 and 3/3